Individual Mandate Under the ACA

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Summary

Since 2014, the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) has required most individuals to maintain health insurance coverage or potentially to pay a penalty for noncompliance. Specifically, most individuals are required to maintain *minimum essential coverage* for themselves and their dependents. Minimum essential coverage is a term defined in the ACA and its implementing regulations and includes most private and public coverage (e.g., employer-sponsored coverage, individual coverage, Medicare, and Medicaid, among others). Some individuals are exempt from the mandate and the penalty, and others may receive financial assistance to help them pay for the cost of health insurance coverage and the costs associated with using health care services.

Individuals who do not maintain minimum essential coverage and are not exempt from the mandate have to pay a penalty for each month of noncompliance with the mandate. The penalty is the greater of a flat dollar amount or a percentage of applicable income. In 2014, the annual penalty was the greater of $95 or 1% of applicable income; the penalty increased to the greater of $325 or 2% of applicable income in 2015. The penalty will increase again in 2016 and will be adjusted for inflation thereafter.

The penalty is assessed through the federal tax filing process. The Internal Revenue Service (IRS) can attempt to collect any owed penalties by reducing the amount of an individual's tax refund; however, individuals who fail to pay the penalty will not be subject to any criminal prosecution or penalty for such failure. The Secretary of the Treasury cannot file notice of lien or file a levy on any property for a taxpayer who does not pay the penalty.

Certain individuals are exempt from the individual mandate and the penalty. For example, individuals with qualifying religious exemptions and those whose household income is below the filing threshold for federal income taxes are not subject to the penalty. The ACA allows the Secretary of Health and Human Services (HHS) to grant hardship exemptions from the penalty to anyone determined to have suffered a hardship with respect to the capability to obtain coverage. The Secretary of HHS has identified a number of different circumstances that would allow individuals to receive a hardship exemption, including an individual not being eligible for Medicaid based on a state's decision not to carry out the ACA expansion and financial or domestic circumstances that prevent an individual from obtaining coverage (e.g., eviction or recent experience of domestic violence).

The ACA includes several reporting requirements designed, in part, to assist individuals in providing evidence of having met the mandate. Every entity (including employers, insurers, and government programs) that provides minimum essential coverage to any individual must present a return to the IRS and a statement to the covered individual that includes information about the individual's health insurance coverage.

Contents

Tables

Appendixes

Contacts

This report describes the individual mandate as established under the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended).[1] It also discusses the ACA reporting requirements designed, in part, to assist individuals in providing evidence of having met the mandate.

Individual Mandate

The ACA requires most individuals to have health insurance coverage or potentially to pay a penalty for noncompliance.[2] Individuals are required to maintain minimum essential coverage for themselves and their dependents. Some individuals are exempt from the mandate and the penalty, and others may receive financial assistance to help them pay for the cost of health insurance coverage and the costs associated with using health care services. Calendar year 2014 was the first year in which individuals were expected to comply with the individual mandate requirement. Because the penalties are assessed through the federal tax filing process, calendar year 2015 is the first year in which the penalty is assessed (for calendar year 2014).

Minimum Essential Coverage

In general, individuals who are not exempt from the mandate must maintain minimum essential coverage to avoid the penalty. Minimum essential coverage is defined broadly in statute and is defined further in regulations; the definition includes most types of government-sponsored coverage (e.g., Medicare) as well as most types of private insurance (e.g., employer-sponsored insurance, or ESI). **Table A-1** in **Appendix A** lists types of coverage that are and are not considered minimum essential coverage, as identified in statute, regulations, and guidance.

Penalty

With some exceptions, individuals are required to maintain minimum essential coverage for themselves and their dependents.[3] Those who do not meet the mandate may be required to pay a penalty for each month of noncompliance. The penalty is calculated as the *greater* of either

[1] On June 28, 2012, the U.S. Supreme Court issued its decision in National Federation of Independent Business v. Sebelius, finding that the individual mandate in Section 5000A of the Internal Revenue Code (IRC) is a constitutional exercise of Congress's authority to levy taxes. However, the Court held that it was not a valid exercise of Congress's power under the Commerce Clause or the Necessary and Proper Clause. For more information, see CRS Report WSLG112, *Supreme Court Upholds the Individual Mandate as a Permissible Exercise of Congress' Taxing Power*, by Erika K. Lunder.

[2] 26 U.S.C. §5000A.

[3] The Internal Revenue Service (IRS) provides that a taxpayer is liable for an individual mandate penalty for his or her dependents regardless of whether the taxpayer claims a personal exemption for the dependents for the taxable year. *Dependent* is defined in IRC §152 and includes qualifying children and qualifying relatives (78 *Federal Register* 53646, August 30, 2013).

- **A percentage of applicable income,** defined as the amount by which an individual's household income[4] exceeds the applicable tax filing threshold for the tax year;[5] or
- **A flat dollar amount** assessed on each taxpayer and any dependents.

As shown in **Table 1**, both the percentage and the flat dollar amount increase between 2014 and 2016, and the dollar amount is adjusted for inflation thereafter. When calculating the flat dollar amount assessed on a taxpayer and his or her dependents, the flat dollar amount is reduced by one-half for dependents under the age of 18 and the total family penalty is capped at 300% of the annual flat dollar amount. For example, in 2015 the flat dollar amount for a taxpayer and his or her dependents is limited to three times $325, or $975.

Table 1. Annual Individual Mandate Penalty

Year	Percentage of Applicable Income	Flat Dollar Amount
2014	1.0%	$95
2015	2.0%	$325
2016	2.5%	$695
2017 and Beyond	2.5%	$695 adjusted for inflation

Source: IRC §5000A.

Notes: The table shows the annual penalty, but the penalty is assessed on a monthly basis. The monthly penalty is 1/12 of the annual penalty.

The total monthly penalty for a taxpayer and his or her dependents cannot be more than the cost of the national average premium for bronze-level health plans offered through health insurance exchanges (for the relevant family size).[6] In other words, the total monthly penalty is capped. In 2015, the average premium is $207 per individual per month.[7] If a taxpayer is liable to pay a penalty for more than one individual, the monthly individual amount ($207) is multiplied by the number of individuals subject to a penalty, up to a maximum of five individuals.[8] So, in 2015 the maximum cap is $1,035 per month for any taxpayers who are liable for penalties for five or more individuals.

See **Appendix B** for penalty examples for 2014, 2015, and 2016.

[4] Household income is defined as the modified adjusted gross income (MAGI) of the taxpayer, plus the aggregate MAGI of all other individuals for whom the taxpayer is allowed a deduction for personal exemptions for the taxable year—the taxpayer's spouse and dependents (as defined in IRC §152). For more information about MAGI, see CRS Report R43861, *The Use of Modified Adjusted Gross Income (MAGI) in Federal Health Programs*, coordinated by Evelyne P. Baumrucker.

[5] The filing threshold comprises the personal exemption amount (doubled for those married filing jointly) plus the standard deduction amount.

[6] Health insurance plans offered in the nongroup and small group markets must have an actuarial value that corresponds to one of four tiers, as designated by a metal. Plans offered in the bronze tier have the lowest actuarial value—60%. For more information, see CRS Report R43854, *Overview of Private Health Insurance Provisions in the Patient Protection and Affordable Care Act (ACA)*, by Annie L. Mach and Namrata K. Uberoi.

[7] IRS Rev. Proc. 2014-46.

[8] In 2014, the cap was $1,020 per month for any taxpayers who were liable for penalties for five or more individuals ($12,240 annually).

Paying the Penalty

Any penalty that taxpayers are required to pay for themselves or their dependents must be included in their federal income tax return for the taxable year. Those individuals who file joint returns are jointly liable for the penalty.

Taxpayers who are required to pay a penalty but fail to do so will receive a notice from the Internal Revenue Service (IRS) stating that they owe the penalty. If they still do not pay the penalty, the IRS can attempt to collect the funds by reducing the amount of their tax refund for that year or future years. However, individuals who fail to pay the penalty will not be subject to any criminal prosecution or penalty for such failure. The Secretary of the Treasury cannot file notice of lien or file a levy on any property for a taxpayer who does not pay the penalty.

Exemptions

Certain individuals (and their dependents) are exempt from the individual mandate or its associated penalty.[9] **Table 2** describes the various exemptions. Most of the exemptions are outlined in statute and in regulations issued by the IRS. The ACA also gives the Secretary of Health and Human Services (HHS) the authority to determine the circumstances under which an individual may receive a hardship exemption. The following section, "Hardship Exemption" further details the circumstances identified by the HHS Secretary.

Table 2. Exemptions from the ACA's Individual Mandate and Its Associated Penalty

Exemption	Description
Religious Conscience	To qualify for this exemption, an individual must be a member of a recognized religious sect or division (as described in 1402(g)(1) of the Internal Revenue Code [IRC]) by reason of which he or she is conscientiously opposed to acceptance of the benefits of any private or public insurance that makes payments in the event of death, disability, old age, or retirement or makes payments toward the cost of, or provides services for, medical care (including the benefits of any insurance system established by the Social Security Act, such as Social Security benefits and Medicare). Such sect or division must have been in existence at all times since December 31, 1950.[a]
Hardship	Any individual whom the Secretary of Health and Human Services (HHS) determines to have suffered a hardship with respect to the capability to obtain coverage under a health plan is exempt. Individuals who obtain hardship exemptions are eligible for catastrophic coverage.[b]
Health Care Sharing Ministry Membership	To qualify for this exemption, an individual must be a member of a health care sharing ministry[c] that 1) has been in existence (and sharing medical expenses) at all times since December 31, 1999, and 2) conducts an annual audit by an independent certified public accountant, available to the public upon request.
Indian Tribe Membership	For purposes of this exemption, the term *Indian tribe* means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[9] The Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) provides that certain exemptions are from the individual mandate, whereas other exemptions are not from the mandate but from the penalty. The practical effects are the same whether an individual is exempt from the mandate or the penalty—the individual will not be subject to a penalty for not maintaining minimum essential coverage.

Exemption	Description
Incarceration	Incarcerated individuals are exempt, except those pending the disposition of charges.
Affordability	Individuals whose required contribution for self-only coverage exceeds a certain percentage of household income are exempt.[d] The percentage was 8.0% for plan years beginning in 2014 and is 8.05% for plan years beginning in 2015.[e] Individuals who obtain affordability exemptions are eligible for catastrophic coverage.[b]
Unlawful Resident	Individuals who are not lawfully present in the United States are exempt.
Coverage Gap	No penalty will be imposed on those without coverage for less than three months, but this exemption applies only to the first short coverage gap in a calendar year.
Filing Threshold	Individuals whose household income is less than the filing threshold for federal income taxes for the applicable tax year are exempt.[f]
Living Abroad	Qualifying individuals who otherwise would be subject to the mandate but who live abroad for at least 330 days within a 12-month period as well as bona fide residents of any possession of the United States will be considered to have minimum essential coverage and therefore are not subject to the penalty.

Source: IRC §5000A and implementing regulations.

Notes: An additional exemption was available for calendar year 2014 only. The exemption was for taxpayers and any dependents who were eligible for non-calendar year employer-sponsored insurance plans in 2013. These individuals were exempt from the mandate for certain months in 2014. See IRS Notice 2013-42 for more details.

a. There is no list of specific religious groups that qualify for the exemption. For more information, see CRS Report RL34708, *Religious Exemptions for Mandatory Health Care Programs: A Legal Analysis*, by Cynthia Brown.

b. Under the Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended), catastrophic plans must cover a comprehensive set of benefits but do not have to comply with the same cost-sharing requirements with which other plans must comply under the ACA. As a result, these plans typically have lower premiums because they have higher cost sharing. Only individuals who are either under the age of 30 or eligible for a hardship or affordability exemption are eligible to enroll in catastrophic plans.

c. A health care sharing ministry is defined as an organization described in Section 501(c) of the IRC (including corporations and any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, or testing for public safety) that is exempt from taxation under Section 501(a). Members of the ministry share a common set of ethical or religious beliefs and share medical expenses, and they retain membership even after they develop a medical condition.

d. Required contribution is defined as (1) in the case of an individual eligible to purchase minimum essential coverage through an employer (other than through an exchange), the portion of the annual premium that is paid by the individual for self-only coverage, or (2) for individuals not included above, the annual premium for the lowest-cost bronze plan available in the individual market through the exchange in the state in which the individual resides, reduced by the amount of any premium credit received for the taxable year.

e. The 8.0% threshold for 2014 was specified in statute. For all subsequent years, the threshold is indexed by the amount that reflects premium growth from the previous year over income growth from the previous year, as determined by the HHS Secretary.

f. In 2014, the tax filing thresholds for individuals under the age of 65 were $10,150 for a single filing status and $20,300 for a married couple filing jointly. In 2015, the filing thresholds for individuals under the age of 65 are $10,300 for a single filing status and $20,600 for a married couple filing jointly. The filing threshold is linked to an inflation adjustment based on the Consumer Price Index for All Urban Consumers, and therefore it may be higher in 2016.

Hardship Exemption

Any individual whom the HHS Secretary determines has suffered a hardship with respect to the capability to obtain health insurance coverage will receive a hardship exemption. In regulations,[10] HHS has identified a number of circumstances that allow individuals to receive a hardship exemption,[11] including those in which an individual

- experiences financial, domestic, or other circumstances that prevent him or her from obtaining coverage or the expense of purchasing coverage would cause him or her to experience serious deprivation of food, shelter, clothing, or other necessities;
- is unable to afford coverage based on projected household income;
- has income below the filing threshold (and therefore is eligible for the filing threshold exemption), except that he or she claimed a dependent with a filing requirement and had household income exceeding the filing threshold as a result;
- is ineligible for Medicaid based on a state's decision not to carry out the ACA expansion;
- is identified as eligible for affordable self-only ESI, but the aggregate cost of the ESI for all the employed members of the individual's family exceeds a certain percentage of household income;[12] and
- is an Indian eligible for services through an Indian health care provider but is not eligible for an exemption based on being a member of an Indian tribe, or is eligible for services through the Indian Health Service.

Claiming an Exemption

Individuals can be exempt from the mandate and the penalty based on their characteristics, financial status, or affiliations (e.g., religious affiliations). Some exempt individuals do not have to take any actions to claim the exemption, such as those who live abroad for more than 330 days in a 12-month period and those who are bona fide residents of a U.S. possession. Other individuals must either obtain a certification of exemption from a health insurance exchange or claim the exemption through the tax filing process.

Regulations provide that most exemptions be applicable retrospectively (with an exception for a specific hardship definition) and be recertified annually; only the religious and Indian tribe exemptions are eligible for prospective or retrospective applicability and continuous certification.

Table 3 outlines the basic features of nine exemption categories.

Table 3. Requirements for Claiming Individual Mandate Exemptions Under the ACA

Exemption	Eligibility Certification	Applicability	Recertification
Religious Conscience	Exchange Only	Prospective or Retrospective	Continuous[a]

[10] 45 C.F.R. §155.605(g).

[11] In guidance, the Department of Health and Human Services (HHS) identified additional hardship exemptions for 2014 only. Because the exemptions are no longer available, they are not included here.

[12] The percentage was 8.0% in 2014 and is 8.05% in 2015. In subsequent years, the threshold will be indexed by the amount that reflects premium growth from the previous year over income growth from the previous year, as determined by the HHS Secretary.

Exemption	Eligibility Certification	Applicability	Recertification
Hardship	Exchange or Tax Filing[b]	Retrospective[c]	Annual
Health Care Sharing Ministry Membership	Exchange or Tax Filing	Retrospective	Annual
Indian Tribe Membership	Exchange or Tax Filing	Prospective or Retrospective	Continuous
Incarceration	Exchange or Tax Filing	Retrospective	Annual
Affordability	Tax Filing Only	Retrospective	Annual
Unlawful Resident	Tax Filing Only	Retrospective	Annual
Coverage Gap	Tax Filing Only	Retrospective	Annual
Filing Threshold	Not Applicable[d]	Retrospective	Annual

Sources: 45 C.F.R. §155.605 and 26 C.F.R. §1.5000A-3.

Note: The exemptions for qualifying individuals who live abroad for at least 330 days within a 12-month period and bona fide residents of any possession of the United States are not included in this table because individuals who meet one of these criteria do not need to take any action to comply with the individual mandate.

a. Reapplication for the exemption is required when an individual reaches the age of 21. See 45 C.F.R. §155.605(c).

b. Some types of hardship exemptions can be claimed through an exchange, whereas other types can be claimed only through the federal tax filing process. See IRS Notice 2014-76 for a complete list of hardship exemptions that can be claimed through the tax filing process.

c. One type of hardship exemption is available prospectively; it is available to individuals for whom qualifying coverage is unaffordable based on *projected* income.

d. Individuals who qualify for a tax filing threshold exemption are not required to file a tax return or apply to an exchange to claim the exemption; these individuals are exempt automatically and do not need to take further action to secure an exemption. However, if the individuals choose to file a return, they may claim the exemption on their return.

Implementation

The individual mandate went into effect in 2014. When individuals filed their federal tax returns for that year, they had to report whether they maintained minimum essential coverage for each month in 2014 and whether they were exempt from the mandate for all or part of the year.

As of the date of this report, the Department of the Treasury has not released information from 2014 tax filings related to the individual mandate. Information such as the number of individuals who were subject to the penalty in 2014, the amount of any penalties owed, and the number of individuals who were exempt from the mandate is not currently available.

Potential Financial Assistance

Although the ACA requires most individuals to maintain minimum essential coverage, it provides financial assistance to some individuals to help them meet the requirement. Under the ACA Medicaid expansion, some states have expanded their Medicaid programs to include all non-elderly, nonpregnant individuals with income below 133% of the federal poverty level (FPL), which has increased Medicaid enrollment significantly.[13] As of 2014, some individuals who do not qualify for Medicaid coverage, but who meet other ACA requirements, are able to receive

[13] For more information about the Medicaid expansion, see CRS Report R43564, *The ACA Medicaid Expansion*, by Alison Mitchell.

subsidies to help pay for the premiums and cost-sharing requirements of health plans offered through an exchange.[14]

Reporting Minimum Essential Coverage

The ACA requires that certain information be provided to the IRS and to individuals, in part to ensure that both parties have knowledge and proof that an individual is meeting the individual mandate.[15] Every entity (including employers, insurers, and government programs) that provides minimum essential coverage to any individual must present a return to the IRS and a statement to the covered individual.

The person required to provide the return and statement is referred to as the *reporting entity*. In general, insurers are the reporting entities for all fully insured health insurance arrangements and plan sponsors are the reporting entities for all self-insured arrangements.[16] A government agency or unit is the reporting entity for any coverage under a government-sponsored program, including any coverage that is provided through an insurer (e.g., a Medicare Advantage plan). An insurer does not have to provide a return or a statement for any coverage it offers through an individual health insurance exchange, as the exchange is the reporting entity for such coverage; however, insurers that offer small group coverage through a small business health options program (SHOP) exchange are the reporting entities for such coverage.

The return provided to the IRS must include the following:

- the name, address, and employer identification number (EIN) of the reporting entity required to file the return;
- the name, address, and taxpayer identification number (TIN) of the *responsible individual*[17] and each other individual covered under the policy or program;[18]
- the months for which, for at least one day, each individual was covered under the policy or program;
- for coverage provided through the group plan of an employer—
  - the name, address, and EIN of the employer sponsoring the plan;
  - whether the coverage is a qualified health plan (QHP) offered through a SHOP exchange and the SHOP's unique identifier;
- and any other information as specified in forms, instructions, or published guidance issued by the Department of the Treasury.

[14] For more details, see CRS Report R43945, *Health Insurance Premium Credits in the Patient Protection and Affordable Care Act (ACA) in 2015,* by Bernadette Fernandez.

[15] 26 U.S.C. §6055.

[16] A fully insured plan is one in which the plan sponsor (e.g., employer or association) purchases health coverage and the carrier assumes the risk of providing health benefits to the sponsor's enrolled members. A self-insured plan is one in which the plan sponsor provides coverage for its members directly by setting aside funds and paying for health benefits.

[17] In regulations, the term responsible individual includes, "a primary insured, employee, former employee, uniformed services sponsor, parent, or other related person named on an application who enrolls one or more individuals, including him or herself, in minimum essential coverage." 26 C.F.R. §1.6055-1(b)(11).

[18] Regulations provide that a reporting entity is required to make a reasonable effort to obtain the TIN of each individual covered under the plan, but if a TIN is not available, the reporting entity must provide a date of birth for the individual instead.

The reporting entity also must provide a statement to each responsible individual covered under the policy or program. The statement must include the contact information for the person designated as the reporting entity's contact person; the policy number of the coverage, if any; and the information included in the return to the IRS for the responsible individual and any individuals listed on the return.

Reporting entities were required to begin submitting returns in 2014; however, in July 2013 the Department of the Treasury published a notice that delayed the reporting requirement until 2015.[19] Reporting entities that do not file timely and accurate returns and those that do not provide statements to individuals could be subject to penalties.

[19] IRS Notice 2013-45.

Appendix A. Minimum Essential Coverage

Table A-1. Types of Health Insurance Coverage as They Relate to the Definition of Minimum Essential Coverage

(as identified in statute, regulations, and guidance)

Type of Coverage	Is It Considered Minimum Essential Coverage?
Medicare Part A	Yes
Medicare Advantage	Yes
Medicaid Full Benefit Coverage	Yes
Medicaid Limited Benefit Coverage	
Optional coverage of family planning services[a]	No[b]
Optional coverage of tuberculosis-related services[c]	No[b]
Coverage of pregnancy-related services[d]	No[b]
Coverage limited to treatment of emergency medical conditions[e]	No[b]
Coverage authorized under §1115(a) of the Social Security Act (SSA)[f]	No[b]
Medicaid coverage for the medically needy[g]	No[b]
State Children's Health Insurance Program (CHIP)	Yes
TRICARE	
Limited benefit TRICARE programs[h]	No[b]
Other coverage offered under TRICARE	Yes
Veterans Affairs Health Care Programs[i]	
Medical benefits package authorized for eligible veterans under 38 U.S.C. 1710 and 38 U.S.C. 1705	Yes
Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) authorized under 38 U.S.C. 1781[j]	Yes
Comprehensive health care program authorized under 38 U.S.C. 1803 and 38 U.S.C. 1821 for certain children of Vietnam Veterans and Veterans of covered service in Korea who are suffering spina bifida	Yes
Peace Corps Program	Yes
Non-appropriated Fund Health Benefits Program of the Department of Defense	Yes
Employer-Sponsored Health Insurance	Yes
Individual Market Health Insurance	Yes
Qualified Health Plans Offered Inside and Outside Exchanges	Yes
Grandfathered Health Plans[k]	Yes

Type of Coverage	Is It Considered Minimum Essential Coverage?
Self-Funded Student Health Plans	Possibly[l]
Refugee Medical Assistance Supported by the Administration for Children and Families	Yes
State High-Risk Pools	Possibly[m]
Group Health Plan Provided Through Insurance Regulated by a Foreign Government	Yes[n]
Excepted Benefits	Possibly[o]

Sources: IRC §5000A, 26 C.F.R. §1.5000A-2, and implementing guidance.

Notes: The Patient Protection and Affordable Care Act (ACA; P.L. 111-148, as amended) allows the Secretary of Health and Human Services (HHS), in coordination with the Secretary of the Treasury, to recognize arrangements other than those identified in statute as minimum essential coverage. HHS has outlined a procedure by which a sponsor of coverage or a government agency may apply to HHS to have its coverage certified as minimum essential coverage. The process is outlined in 45 C.F.R. §156.604 and in guidance issued by HHS. (See HHS, Centers for Medicare & Medicaid Services, Center for Consumer Information and Insurance Oversight (CCIIO), *CCIIO Sub-Regulatory Guidance: Process for Obtaining Recognition as Minimum Essential Coverage,* October 31, 2013.)

a. As defined in 42 U.S.C. 1396a(a)(10)(A)(ii)(XXI).

b. While this type of coverage is not considered minimum essential coverage, individuals who had only this type of coverage in 2014 were not subject to the individual mandate penalty.

c. As defined in 42 U.S.C. 1396a(a)(10)(A)(ii)(XII).

d. As defined in 42 U.S.C. 1396a(a)(10)(A)(i)(IV) and 1396a(a)(10)(A)(ii)(IX).

e. As authorized by 42 U.S.C. 1396b(v).

f. In general, §1115 of the Social Security Act (SSA) gives the Secretary of HHS authority to approve experimental, pilot, or demonstration projects that promote the objectives of the Medicaid and CHIP programs. §1115(a)(2) of the SSA allows a state to extend benefits to additional populations (expansion populations) that otherwise would not be eligible for Medicaid. The coverage a state extends to expansion populations is not required to be comprehensive and may be limited.

g. As defined in 42 U.S.C. 1396a(a)(10)(C) and 42 C.F.R. 435.300 and following sections.

h. Specifically, the program providing care limited to the space available in a facility for the uniformed services for individuals excluded from TRICARE coverage under 10 U.S.C. §1079(a), 10 U.S.C. §1086(c)(1), or 10 U.S.C. §1086(d)(1), and the program for individuals not on active duty for an injury, illness, or disease incurred or aggravated in the line of duty under 10 U.S.C. §1074a and 10 U.S.C. §1074b.

i. P.L. 111-173 amended the ACA to clarify that the Secretary of Veterans Affairs (VA), in coordination with the Secretary of HHS and the Secretary of the Treasury, would determine which VA health care programs would be considered minimum essential coverage. The programs outlined in the table are the VA programs the Secretaries have identified as minimum essential coverage; it is unclear whether coverage under any VA programs other than those specified in the table is considered minimum essential coverage. For more information on VA health care under the ACA, see CRS Report R41198, *TRICARE and VA Health Care: Impact of the Patient Protection and Affordable Care Act (ACA)*, by Sidath Viranga Panangala and Don J. Jansen.

j. For more information on the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), see CRS Report RS22483, *Health Care for Dependents and Survivors of Veterans*, by Sidath Viranga Panangala.

k. Grandfathered plans are defined as those individual and group plans that an individual or family was enrolled in on the date of enactment (March 23, 2010). For additional information about grandfathered plans, see CRS Report R41166, *Grandfathered Health Plans Under the Patient Protection and Affordable Care Act (ACA)*, by Bernadette Fernandez.

l. Self-funded student health plans were designated minimum essential coverage for plan or policy years beginning on or before December 31, 2014; for coverage beginning after December 31, 2014, sponsors of such plans have to apply to the HHS Secretary to be recognized as minimum essential coverage via the process outlined in 45 C.F.R. §156.604.

m. State high-risk pools were designated as minimum essential coverage for plan or policy years beginning on or before December 31, 2014; for coverage beginning after December 31, 2014, sponsors of high-risk pool coverage have to apply to the HHS Secretary to be recognized as minimum essential coverage via the process outlined in 45 C.F.R. §156.604.

n. According to guidance from HHS, an individual who has coverage under a group health plan provided through insurance regulated by a foreign government has minimum essential coverage if the individual is "physically absent from the United States" and if the individual is "physically present in the United States ... while the individual is on expatriate status." For more information, see *CCIIO Sub-Regulatory Guidance: Process for Obtaining Recognition as Minimum Essential Coverage*, issued October 31, 2013.

o. Excepted benefits, as defined in 42 U.S.C. §300gg-91(c) (1), are never considered minimum essential coverage, and excepted benefits as defined in 42 U.S.C. §300gg-91(c) (2), (3), (4) are not minimum essential coverage as long as they are provided under a separate policy, certificate, or contract of insurance.

Appendix B. Penalty Examples

The following are illustrative penalty examples for single individuals and for families of four (specifically, a married couple with two children under the age of 18). In all of the examples, the individual or individuals are subject to the individual mandate penalty for an entire calendar year.

The 2014 and 2015 examples use actual tax filing thresholds and penalty caps for the respective year. The 2014 filing thresholds are $10,150 for a single individual under the age of 65 with no dependents (single filing status) and $20,300 for a married couple filing jointly. The 2014 penalty cap is $204 per month per individual, up to a maximum of five individuals. The 2015 filing thresholds are $10,300 for a single individual under the age of 65 with no dependents (single filing status) and $20,600 for a married couple filing jointly. The 2015 penalty cap is $207 per month per individual, up to a maximum of five individuals.

Neither the tax filing thresholds nor the penalty caps for 2016 have been determined. Because the filing thresholds are linked to an inflation adjustment based on the Consumer Price Index for All Urban Consumers (CPI-U),[20] they likely will be higher when implemented in 2016. The examples for 2016 use estimated filing thresholds.[21] The Congressional Research Service does not have the information needed to estimate the 2016 penalty caps; therefore, estimated penalty caps are not used in the 2016 examples. Because the 2016 filing thresholds are estimated and the penalty caps are not used, the numbers for 2016 are meant for illustrative purposes only. These examples are best used to show the relative scope of the penalties and the relationship between the various components of the formulas for calculating the penalty.

Penalty Examples: Single Individual

Based on the information above, the following are illustrative individual-mandate penalties for a single individual with no dependents who is subject to the penalty for an *entire calendar year*.

In 2014,

- an individual with income above $10,150 (the tax filing threshold) but at or below $19,650 will pay the $95 flat amount;
- an individual with income above $19,650 but below $254,950 will pay 1% of applicable income (the difference between the individual's income and $10,150);
- the penalty cap will apply to an individual with income at or above $254,950, so the individual will pay $2,448.

In 2015,

- an individual with income above $10,300 (the tax filing threshold) but at or below $26,550 will pay the $325 flat amount;

[20] The Consumer Price Index for All Urban Consumers (CPI-U) is a measure of inflation published by the U.S. Bureau of Labor Statistics. One way in which it is used is to calculate annual inflation adjustments to personal income tax brackets.

[21] The estimated filing thresholds for 2016 are not based on the formula the IRS uses to adjust the filing thresholds; rather, they were calculated by using the Congressional Budget Office's (CBO's) CPI-U forecast for 2016 and then rounding down the estimates to the nearest $50. The Congressional Budget Office's CPI-U forecast was obtained from CBO, *The Budget and Economic Outlook: 2014 to 2024*, February 4, 2014, at http://www.cbo.gov/sites/default/files/cbofiles/attachments/45010-Outlook2014_Feb.pdf.

- an individual with income above $26,550 and below $134,500 will pay 2% of applicable income (the difference between the individual's income and $10,300);
- the penalty cap will apply to an individual with income at or above $134,500, so the individual will pay $2,484.

In 2016,

- an individual with income above the filing threshold (estimated to be $10,450 in 2016) but at or below an estimated $38,250 will pay the $695 flat amount;
- an individual with income above an estimated $38,250 and below the amount that will trigger the penalty cap will pay 2.5% of applicable income (the difference between the individual's income and the filing threshold);
- an individual with income at or above the amount that will trigger the penalty cap will pay the capped amount.

Penalty Examples: Family of Four

Based on the information above, the following are illustrative individual mandate penalties for a family of four (married couple with two children under the age of 18) who are all subject to the penalty for an *entire calendar year*.

In 2014,

- those with income above $20,300 (the tax filing threshold) but at or below $48,800 will pay the $285 flat dollar amount;
- those with income above $48,800 but below $999,500 will pay 1% of applicable income (the difference between the family's household income and the filing threshold);
- the penalty cap will apply to a family of four with income at or above $999,500, so the family will pay $9,792.

In 2015,

- those with income above $20,600 (the tax filing threshold) but at or below $69,350 will pay the $975 flat dollar amount;
- those with income above $69,350 and $517,400 will pay 2% of applicable income (the difference between the family's household income and the filing threshold);
- the penalty cap will apply to a family of four with income at or above $517,400, so the family will pay $9,936.

In 2016,

- those with income above the filing threshold (estimated to be $20,900 in 2016) but at or below an estimated $104,300 will pay the $2,085 flat dollar amount;
- those with income above an estimated $104,300 and below the amount that will trigger the penalty cap will pay 2.5% of applicable income (the difference between the family's household income and the filing threshold);
- a family of four with income at or above the amount that will trigger the penalty cap will pay the capped amount.

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